

Appl. No.: 10/618,175
Amdt. Dated: ____ October 2006
Reply to Office Action dated 06/22/06

Remarks/Arguments

Applicant submits this Amendment in response to the Office Action (Final Rejection) of 06/22/2006. Enclosed is a Petition for Extension of Time for one month under 37 CFR 1.136(a) with Form PTO-2038 for the fee. Co-filed with this Amendment is a Request for Continued Examination of the application under 37 C.F.R. 1.114. A completed Form PTO-2038 for the fee is enclosed.

In the Office Action the Examiner has rejected claims 1-10 and 12-14 under 35 USC 102(b) as being anticipated by Kraemer (U.S. Pat. No. 6,722,689 B2) and has presented an argument for such rejection. The Examiner has also rejected claims 1 and 6-10 under 35 USC 102(b) as being anticipated by Smith (U.S. Pat. No. 5,934,757) and has presented an argument for such rejection. It is understood from a telephone conversation with the Examiner on 06 September 2006, that was verified by the Examiner's Office Action mailed 09/12/06, that the Kraemer and Smith references were inadvertently switched in the Office Action. Applicant's below response is based on this understanding.

Thus, under 35 USC 102(b) the Examiner has rejected claims 1-10 and 12-14 as being anticipated by Smith (USPN 5,934,757), rejected claims 1 and 6-10 as being anticipated by Kraemer (USPN 6,722,689 B2), rejected claims 1 and 6-10 as being anticipated by Eichorn (USPN 5,590,896), and rejected claims 1 and 6-10 as being anticipated by Williams (USPN 6,155,628).

Smith - Independent claims 1, 6, and 10 have been amended to recite variations of limitations relative to the stiffening means being attached to the seat between the seating portion and the leg rest portion as being rigid and free floating, the stiffening means providing transverse support to the seat and yet collapsing along with the seat in a manner so as not to obstruct collapsing of the seat. The seat of Smith neither teaches nor suggests such limitations as now recited in claims 1, 6, and 10, the stiffening means 77 of Smith merely being flexible straps.

The courts have held, with respect to "anticipation" under 35 USC 102, that "Anticipation requires the presence in a single prior art disclosure of all of a claimed invention

arranged as in the claim.” See Structural Rubber Products Co. v. Park Rubber Co. (Fed Cir 1984) 223 USPQ 124, and Radio Steel & Mfg. Co. v. MTD Products Inc. (Fed Cir 1984) 221 USPQ 757.

As to rejection under 35 U.S.C. 103, the mere fact that the prior art may be modified in a manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification In re Gordon, 723 F.2d at 902, 221 USPQ at 1127. Thus, inasmuch as Smith neither teaches or suggests applicant’s stiffening means, it is submitted that independent claims 1, 6, and 10 are free of rejection as either anticipated (§102) by Smith or obvious (§103) in view of Smith, and claims 2-5, 7-9, and 12-15 variously dependent from claims 1, 6, and 10 are likewise submitted as free of rejection.

Kraemer - As mentioned above, independent claims 1, 6, and 10 have been amended to recite variations of limitations relative to the stiffening means being attached to the seat between the seating portion and the leg rest portion as being rigid and free floating, the stiffening means providing transverse support to the seat and yet collapsing along with the seat in a manner so as not to obstruct collapsing of the seat. Inasmuch as Kraemer neither teaches nor suggests any stiffening means at all, much less the rigid means of applicant as now recited in claims 1, 6, and 10, the Examiner’s statement that the front edge of Kraemer’s seat 38 clearly shows “some kind of stiffening means” does not rise to the level of proper rejection either under §102(b) or §103.

Thus, it is submitted that independent claims 1, 6, and 10 are free of rejection as either anticipated (§102) by Kraemer or obvious (§103) in view of Kraemer, and claims 7-9 are likewise submitted as free of rejection.

Eichorn - As mentioned above, independent claims 1, 6, and 10 have been amended to recite variations of limitations relative to the stiffening means being attached to the seat between the seating portion and the leg rest portion as being rigid and free floating, the stiffening means providing transverse support to the seat and yet collapsing along with the seat in a manner so as not to obstruct collapsing of the seat. Inasmuch as Eichorn neither teaches nor suggests stiffening means as taught and claimed by applicant in amended claims 1, 6, and 10, the Examiner’s referral to the crossbars that connect seat tubes 50, 60 merely points out seat supporting crossbars that are physically attached to the frame of the Eichorn stroller, which structure does not rise to the level of proper rejection either under §102(b) or §103.

Thus, it is submitted that applicant's independent claims 1, 6, and 10 are free of rejection as either anticipated (§102) by Eichorn or obvious (§103) in view of Eichorn, and claims 7-9 are likewise submitted as free of rejection.

Williams - As mentioned above, independent claims 1, 6, and 10 have been amended to recite variations of limitations relative to the stiffening means being attached to the seat between the seating portion and the leg rest portion as being rigid and free floating, the stiffening means providing transverse support to the seat and yet collapsing along with the seat in a manner so as not to obstruct collapsing of the seat. Inasmuch as Williams neither teaches nor suggests any stiffening means at all, much less the rigid means of applicant as now recited in claims 1, 6, and 10, the seat depicted in Williams does not rise to the level of proper rejection either under §102(b) or §103.

Thus, it is submitted that independent claims 1, 6, and 10 are free of rejection as either anticipated (§102) by Williams or obvious (§103) in view of Williams, and claims 7-9 are likewise submitted as free of rejection.

In view of the above, applicant submits that the claims remaining in the case, that is claims 1-10 and 12-14, are now in proper form for allowance and requests that the application be allowed to proceed to issue.

Respectively submitted,

Dated: 18 October 2006


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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 18 October 2006.


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